

Forest Heath District Council

(This report is a key decision. This report has been subject to appropriate notice of publication under the Council's Access to Information Rules)

Report of the Cabinet Member for Environment and Waste

CABINET

3 SEPTEMBER 2013

CAB13/098

DEVELOPING A WEST SUFFOLK CONTAMINATED LAND STRATEGY – POST STAKEHOLDER CONSULTATION (Key Decision Reference: JUN13/01)

1. Summary and reasons for recommendation

- 1.1 To achieve a shared approach to policy and service delivery for the people of West Suffolk and meet statutory obligations under Part 2A of the Environmental Protection Act 1990, Forest Heath District and St Edmundsbury Borough Councils have developed and consulted upon a draft West Suffolk Contaminated Land Strategy (Cabinet Report No CAB13/084 refers).
- 1.2 Once adopted, this will replace the Councils' current strategies. Appendix 1 sets out proposed amendment to the draft Strategy which reflects comments made during the stakeholder consultation.
- 1.3 The final version of the Strategy is set out in Appendix 3 of this report.

2. Recommendation

- 2.1 The Cabinet approves the formal adoption of the proposed West Suffolk Contaminated Land Strategy, as set out in Appendix 3, to this report.**

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3. How will the recommendations help us meet our strategic priorities?

3.1 The two Councils are now working together towards a shared policy and service delivery model. Revising and consolidating the two Councils' existing Contaminated Land Strategies to develop a single West Suffolk Strategy takes account of changes to the legislation and to legal and technical guidance which have occurred since these strategies were adopted. There has therefore been a need to review and develop a strategic approach for West Suffolk, acknowledging the local similarities and differences that exist in the locality.

4. Key Issues

4.1 Local authorities have a statutory duty under Part 2A of the Environmental Protection Act 1990 to publish their strategic approach to tackle land contamination.

4.2 Cabinet Report No CAB13/084 set out the proposal to develop a draft West Suffolk Contaminated Land Strategy which, once consulted upon, would be revised and submitted to each Council's Cabinets for approval and adoption. Cabinet approved the draft Strategy for stakeholder consultation in April 2013 (Cabinet Decision Notice dated 11 April 2013).

4.3 Appendix 2 sets out the stakeholders who were consulted. Of these, one organisation submitted a formal response, which referred to the potential for contamination of the public water supply due to leachate from landfill sites. The Draft Strategy has been amended accordingly with the proposed amendment presented in Appendix 1.

5. Other options considered

5.1 Not taking action – this would leave the two Councils open to challenge that they were not employing current relevant legislation and statutory guidance appropriately to implement the Contaminated Land Regime in their administrative areas.

5.2 Bringing together the two existing strategies into one reflects the new shared way of working that has been adopted by the two authorities, which is helping to bring efficiencies and resilience.

6. Community Impact

6.1 **Crime and Disorder Impact** *(including Section 17 of the Crime and Disorder Act 1998)*

6.1.1 No crime and disorder impacts have been identified arising from consolidating the two strategies into one.

6.2 **Diversity and Equality Impact** *(including the findings of the Equality Impact Assessment)*

6.2.1 An Equalities Impact Assessment has been undertaken. No human rights or diversity implications have been identified arising from consolidating the two strategies.

6.3 Sustainability Impact *(including completing a Sustainability Impact Assessment)*

6.3.1 A Sustainability Impact Assessment has been undertaken. The draft Strategy is aligned with the principles of Sustainability; achieving a balance between the social, economic and environmental concerns whilst meeting our statutory obligations and corporate priorities.

6.4 Other Impact *(any other impacts affecting this report)*

6.4.1 This work supports the Council’s public health and wellbeing responsibilities.

7. Consultation *(what consultation has been undertaken, and what were the outcomes?)*

7.1 The stakeholder consultation was held over 8 weeks and the list of consultees can be found at Appendix 2. One formal comment was received which referred to the potential for contamination of the public water supply due to leachate from landfill sites. The draft Strategy has been amended to reflect this.

8. Financial and resource implications *(including asset management implications)*

8.1 Staff and operational financial resources to deliver the proposed Strategy are already accounted for in the Council’s revenue budget. However, there may be resource implications in the event of a site being formally determined as Contaminated Land for which the Council has a statutory responsibility to clean up. This additional cost would be subject to Cabinet approval.

9. Risk/Opportunity Assessment *(potential hazards or opportunities affecting corporate, service or project objectives)*

9.1

Risk area	Inherent level of Risk <i>(before controls)</i>	Controls	Residual Risk <i>(after controls)</i>
Public Health	Moderate	Implementing the proposed Strategy will ensure that existing and future users of land are protected from significant harm which could arise from land contamination	Low
Statutory Responsibilities	High	The Council has a statutory responsibility to identify and secure clean-up of land contamination. The proposed Strategy will help to ensure that appropriate resources and effort are being used	Low
Reputational	High	It is important that the Council delivers on its strategic responsibilities to maintain and enhance health and wellbeing in the district	Low
Financial	Low	The proposed draft Strategy has no significant financial impact. Additional financial and other resources may be required in the event that specific sites for which the Council has responsibility require investigation and subsequent clean-up.	Medium/low

10. Legal and policy implications

10.1 Detailed legislation regulates land contamination; specifically, Part 2A of the Environmental Protection Act 1990 requires Councils to have a Contaminated

Land Strategy and places duties and responsibilities on the Council to monitor, investigate and manage clean-up to suitable standards.

- 10.2 This work accords with the corporate visions of clean, green, safe and prosperous by ensuring that land is in a suitable state such that it does not cause significant harm to the public, wider damage to the environment and is fit for its use.

11. Wards affected

- 11.1 All wards in West Suffolk are covered by the existing strategies and will continue to be so under the proposed draft Strategy once it has been adopted.

12. Background papers

- 12.1 Report No COM11/353 to Cabinet (Community Services Committee – 13 November 2011)
Report No CAB13/084 to Cabinet (9 April 2013)

13. Documents attached

- 13.1 Appendix 1 - Proposed amendments to the Draft West Suffolk Contaminated Land Strategy following comments from consultees
- 13.2 Appendix 2 – List of stakeholder consultations.
- 13.3 Appendix 3 – Dealing With Land Contamination In West Suffolk Strategy

Appendix 1 – Proposed amendments to the Draft West Suffolk Contaminated Land Strategy following comments from consultees

Page 23 Section 3.5 Contaminant linkages

Anglian Water has requested the inclusion of the following acknowledgement to their protection of the drinking water supply infrastructure in developments on or close to brown field land:

“In addition to the aquifer as a receptor mentioned above, the drinking water supply could also be a receptor via the supply infrastructure in the vicinity of sources of pollution such as landfills where leachate may arise, unless a suitable barrier pipe is installed.

The UK Water Industry Research published guidance in 2010 on the appropriate selection of drinking water pipes in brownfield sites. Anglian Water currently works to this guidance to afford an appropriate level of protection to the drinking water system.”

APPENDIX 2: - LIST OF CONSULTEES

East of England Development Agency
English Nature
English Heritage
Environment Agency
Food Standards Agency
Go-East
Health & Safety Executive
West Suffolk NHS Foundation Trust
Anglian Water Services Limited
Suffolk Wildlife Trust
West Suffolk Green Business Forum
Anglia and Essex PHE Centre

Breckland District Council
East Cambridgeshire District Council
Mid Suffolk District Council
Suffolk County Council
Borough Council of Kings Lynn and West Norfolk